

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 555, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Delete page 2.
- 3 Page 3, delete lines 1 through 27, begin a new paragraph and insert:
- 4 "SECTION 3. IC 11-10-4-3, AS AMENDED BY P.L.99-2007,
- 5 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JULY 1, 2009]: Sec. 3. (a) A committed offender may be involuntarily
- 7 transferred to the division of mental health and addiction or to a mental
- 8 health facility only if:
- 9 (1) the offender has been examined by a psychiatrist employed or
- 10 retained by the department and the psychiatrist reports to the
- 11 department in writing that, in the psychiatrist's opinion, the
- 12 offender has a mental illness and is in need of care and treatment
- 13 by the division of mental health and addiction or in a mental
- 14 health facility;
- 15 (2) the director of mental health approves of the transfer if the
- 16 offender is to be transferred to the division of mental health and
- 17 addiction; and
- 18 (3) the department affords the offender a hearing to determine the
- 19 need for the transfer, which hearing must comply with the
- 20 following minimum standards:

- 1 (A) The offender shall be given at least ten (10) days advance
2 written and verbal notice of the date, time, and place of the
3 hearing and the reason for the contemplated transfer. This
4 notice must advise the offender of the rights enumerated in
5 clauses (C) and (D). Notice must also be given to one (1) of
6 the following:
- 7 (i) The offender's spouse.
 - 8 (ii) The offender's parent.
 - 9 (iii) The offender's attorney.
 - 10 (iv) The offender's guardian.
 - 11 (v) The offender's custodian.
 - 12 (vi) The offender's relative.
- 13 (B) A copy of the psychiatrist's report must be given to the
14 offender not later than at the time notice of the hearing is
15 given.
- 16 (C) The offender is entitled to appear in person, speak in the
17 offender's own behalf, call witnesses, present documentary
18 evidence, and confront and cross-examine witnesses.
- 19 (D) The offender is entitled to be represented by counsel or
20 other representative.
- 21 (E) The offender must be given a written statement of the
22 findings of fact, the evidence relied upon, and the reasons for
23 the action taken.
- 24 (F) A finding that the offender is in need of mental health care
25 and treatment in the division of mental health and addiction or
26 a mental health facility must be based upon clear and
27 convincing evidence.
- 28 (b) If the official in charge of the facility or program to which the
29 offender is assigned determines that emergency care and treatment in
30 the division of mental health and addiction or a mental health facility
31 is necessary to control a mentally ill offender who is either gravely
32 disabled or dangerous, that offender may be involuntarily transferred,
33 subject to the approval of the director of the division of mental health
34 and addiction, before holding the hearing described in subsection
35 (a)(3). However, this subsection does not deprive the offender of the
36 offender's right to a hearing.
- 37 (c) The official in charge of the division of mental health and
38 addiction or facility to which an offender is transferred under this

section must give the offender a semiannual written report, based on a psychiatrist's examination, concerning the offender's mental condition and the need for continued care and treatment in the division of mental health and addiction or facility. If the report states that the offender is still in need of care and treatment in the division of mental health and addiction or a mental health facility, the division of mental health and addiction or facility shall, upon request of the offender or a representative in the offender's behalf, conduct a hearing to review the need for that continued care and treatment. The hearing must comply with the minimum standards established by subsection (a)(3). The division of mental health and addiction or facility to which the offender is transferred under this section may conduct a hearing under this subsection upon its initiative.

(d) If the division of mental health and addiction or facility to which an offender is transferred under this section determines that the offender no longer needs care and treatment in the division of mental health and addiction or facility, the division of mental health and addiction or facility shall return the offender to the custody of the department of correction, and the department of correction shall reassign the offender to another facility or program.

(e) After an offender has been involuntarily transferred to and accepted by the division of mental health and addiction, the department shall transmit any information required by the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3."

Page 4, line 24, delete "a copy of its order and".

Page 4, line 24, delete "other".

Page 5, line 4, delete "a copy of its order and".

Page 5, line 4, delete "other".

Page 5, delete lines 8 through 42.

Delete page 6.

Page 7, delete lines 1 through 41.

Page 8, delete lines 17 through 22.

Page 8, line 23, delete "(9)" and insert "(6)".

Page 8, line 23, after "ill" insert **"and has been involuntarily transferred to and accepted by the division of mental health and addiction under IC 11-10-4-3."**

Page 8, delete lines 24 through 25.

- 1 Page 9, line 6, after "evaluation" insert "**by a psychiatrist or**
- 2 **psychologist licensed to practice in Indiana**".
- 3 Page 9, line 15, delete "a copy of".
- 4 Page 11, line 23, delete "a copy of the verdict and".
- 5 Page 11, line 23, delete "other".
- 6 Page 12, line 20, delete "a copy of the verdict and".
- 7 Page 12, line 20, delete "other".
- 8 Page 13, line 23, delete "a copy of its order and".
- 9 Page 13, line 23, delete "other".
- 10 Renumber all SECTIONS consecutively.
(Reference is to SB 555 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Bray

Chairperson